IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 122 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME-TAX

Versus

PRADEEP J KINARIWALA

Appearance:

1. INCOME TAX REFERENCE No. 122 of 1991

MR BB NAIK with MR MANISH R BHATT for Petitioner No. 1

NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 18/09/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for the opinion of this Court in respect of assessment years 1982-83 and 1983-84 :-

"Whether, the Appellate Tribunal is right in law and on facts in deleting the income of Rs.28,505/- for AY. 1982-83 (Rs.32899/- for A.Y. 1983-84) from the income of the assessee which was included under explanation 2A to section 64 (1) (iii) of the Income Tax Act, 1961 ?"

2. We have heard Mr. B.B. Naik learned counsel for the revenue. Though served none appears for the respondent-assessee..

3. Mr. Naik fairly points out that the controversy raised herein is concluded in favour of the assessee by the decision of this Court in CIT vs. Sunil J. Kinariwala 211 ITR 127. We accordingly answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

4. The Reference accordingly stands disposed of with no order as to costs.

(M.S. Shah,J)

(D.A. Mehta,J)

zgs/-